

Service Date: December 22, 1992

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER Of the Petition of)	UTILITY DIVISION
the Conservation and Least Cost)	
Planning Advisory Committee)	DOCKET NO. 90.8.48
Requesting Certain Actions Affect-)	ORDER NO. 5516a
ing the Montana Power Company.)	

FINAL ORDER

INTRODUCTION AND BACKGROUND

1. On November 19, 1990 the Commission issued Order No. 5516, Docket No. 90.8.48, In the Matter of the Petition of the Conservation and Least Cost Planning Advisory Committee Requesting Certain Actions Affecting the Montana Power Company (MPC). In that Order, pp. 5-6, the Commission directed as follows:

1. MPC is directed to sign all those contracts which were fully negotiated as of October 25, 1990, subject when necessary to the Commission's determination of rates and conditions pursuant to Secs. 69-3-603 and 69-3-604, MCA.

2. MPC is directed to insert in any QF contract for greater than one MW negotiated between October 25, 1990 and issuance of a final order establishing new avoided cost rates, a provision that requires an adjustment in the pricing terms to reflect, on a prospective basis, the new rates that are established.

3. The Commission will commence an avoided cost docket and will issue an order establishing new rates no later than December 31, 1991.

2. Order No. 5516 responded to a petition by MPC's Least Cost Planning Advisory Committee (LCPAC). The LCPAC was concerned that, absent a suspension, least cost planning (LCP) benefits could be foreclosed for up to 15 years.

3. In August, 1991, a letter regarding competitive solicitations and avoided cost rates was sent to MPC under the signa-

ture of former Chairman Howard Ellis. MPC, in response to this letter, recommended that QFs 2 MW or larger should not be eligible to receive the Commission approved default avoided cost rates. MPC stated that QFs 2 MW or larger should only be acquired through the competitive solicitation process and that MPC should not be obligated to purchase capacity from these larger QFs outside of a competitive solicitation. MPC would still offer to purchase electric energy from the large QFs that did not participate in the solicitation process. MPC contended that this is consistent with PURPA and that, between solicitations, QF resources larger than 2 MW could be acquired and their tariffs established using a unit-specific methodology.

4. The Commission was unable to establish new avoided cost rates by December 31, 1991. Therefore, in Order No. 5608, Docket No. 90.8.48, the Commission continued the effective suspension of avoided cost rates for QFs larger than 1 MW as originally directed in Order No. 5516. Order No. 5608, p. 12, stated that the "effective suspension will end on the date of approval of MPC's first avoided cost filing that follows MPC's least cost plan filed pursuant to Commission least cost planning rules."

5. On December 14, 1992 the Commission adopted its Integrated Least Cost Planning rules and amendment of ARM 38.5.1902 and 38.5.1905, pertaining to cogeneration and small power production. The amendment to ARM 38.5.1902(5) establishes 3 MW as the threshold size above which a QF may not enter into long-term contracts for energy and capacity payments pursuant to Commission approved default avoided cost tariff. QFs greater than 3 MW may only receive a long-term contract for purchases and sales of energy and capacity if they are selected in a competitive solicitation.

COMMISSION DECISION

6. In this Order the Commission ends the effective suspension of avoided cost rates for QFs larger than 1 MW as directed in Order Nos. 5516 and 5608. Effective with the service date of this Order, any QF 3 MW or less in size may enter into a long-

term contract with MPC under the tariffed avoided cost rates on file with the Commission. Such contracts should not contain the provision for prospective price adjustments as directed in Order No. 5516.

7. Pursuant to the Commission's rules on integrated least cost planning, QFs greater than 3 MW may obtain long-term contracts for sales of energy and capacity through the competitive solicitation process. In this Order the Commission finds that, between solicitations, QFs larger than 3 MW may enter into short-term contracts with MPC for the sale of energy and capacity. If MPC and the QF are unable to agree to a contract energy price, the QF may opt to receive any one of the three tariffed energy rate options filed by MPC pursuant to the Commission's Order No. 5091c, Docket No. 84.10.64. The Commission will not maintain short-term, tariffed capacity rates for QFs larger than 3 MW. However, QFs and MPC may negotiate a capacity rate if they so choose. Short-term contracts shall be in force only during the time between competitive solicitations; all contracts will expire upon the conclusion of the first subsequent solicitation. Any QFs larger than 3 MW that are not selected in the solicitation or did not participate in the solicitation must then negotiate new short-term prices or contract under newly computed, Commission approved avoided cost tariff.

CONCLUSIONS OF LAW

1. The Commission has the statutory duty to supervise, regulate and control public utilities. Sec. 69-3-102, MCA.

2. The Commission has the statutory duty to assure that utility rates are just and reasonable. Sec. 69-3-202, MCA.

3. The Commission has a duty to encourage development of cogeneration and small power production. Sec. 69-3-604(2), MCA.

4. The provisions of this Order fairly balance the interests of ratepayers, utilities, small power producers and cogenerators.

ORDER

Ordering paragraphs 1, 2 and 3 of Order No. 5516 and ordering paragraphs 1 and 2 of Order No. 5608 are hereby vacated. MPC shall contract with QFs pursuant to direction described above.

Done and Dated this 22nd day of December, 1992 by a vote of 4-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

DANNY OBERG, Chairman

BOB ANDERSON, Commissioner

JOHN B. DRISCOLL, Commissioner

TED C. MACY, Commissioner

ATTEST:

Kathlene M. Anderson
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.4806, ARM.